

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE JULY 15, 2009

AMENDED IN SENATE JUNE 15, 2009

AMENDED IN ASSEMBLY MARCH 24, 2009

AMENDED IN ASSEMBLY MARCH 11, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 131

Introduced by Assembly Member Evans

January 20, 2009

An act to amend Section ~~68085.1~~ of the Government Code, and to amend Sections 903.1 and 903.45 of, and to add Section 903.47 to, the Welfare and Institutions Code, relating to juvenile court costs.

LEGISLATIVE COUNSEL'S DIGEST

AB 131, as amended, Evans. Juvenile proceedings: costs.

Existing law provides for the appointment of counsel to represent a parent or guardian of a child, or the child, in juvenile court proceedings if the parent or guardian is unable to afford counsel. Existing law also provides that the father, mother, spouse, or other person liable for the support of the minor shall be liable to the county for those costs, except as specified, and, more generally, for specified other costs, including the reasonable costs of support of the minor while the minor is placed *in*, detained in, or committed to, any institution pursuant to an order of the juvenile court or pursuant to the authority of a peace officer to take a minor into temporary custody.

Existing law authorizes the board of supervisors to designate a county financial evaluation officer to make financial evaluations of liability for reimbursement of the costs described above, as specified, and authorizes that officer to petition the court for an order requiring the person who is determined to be financially responsible to pay the costs.

This bill would expand the provisions described above to specifically provide that the persons who are liable for the support of the minor shall also be liable for the cost to the county or the court for the cost of legal services rendered to the minor, except under specified circumstances. *The bill would specify that the fees collected pursuant to this provision be deposited in the Trial Court Trust Fund.*

The bill would require the Judicial Council to establish a cost recovery program, including a specified statewide standard for determining the ability to pay, to collect reimbursements for the costs of counsel appointed by the court to represent parents or minors, as specified. The bill would also authorize the court, with the consent of the county and pursuant to the terms and conditions agreed upon by the court and the county, to designate a financial evaluation officer to make financial evaluations of liability for reimbursement pursuant to the provision governing liability for the cost to the county or the court of legal services rendered to the minor. The bill would also make related and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 68085.1 of the Government Code is~~
2 ~~amended to read:~~
3 ~~68085.1. (a) This section applies to all fees and fines that are~~
4 ~~collected on or after January 1, 2006, under all of the following:~~
5 ~~(1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,~~
6 ~~704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of,~~
7 ~~subdivision (g) of Section 411.20 and subdivisions (e) and (g) of~~
8 ~~Section 411.21 of, and Chapter 5.5 (commencing with Section~~
9 ~~116.110) of Title 1 of Part 1 of, the Code of Civil Procedure.~~
10 ~~(2) Section 3112 of the Family Code.~~
11 ~~(3) Section 31622 of the Food and Agricultural Code.~~
12 ~~(4) Subdivision (d) of Section 6103.5, Sections 68086 and~~
13 ~~68086.1, paragraph (3) of subdivision (a) of Section 68638,~~

1 Sections 68926.1 and 69953.5, and Chapter 5.8 (commencing with
2 Section 70600) of this code:

3 ~~(5) Section 103470 of the Health and Safety Code.~~

4 ~~(6) Subdivisions (b) and (c) of Section 166 and Section 1214.1~~
5 ~~of the Penal Code.~~

6 ~~(7) Sections 1835, 1851.5, 7660, and 13201 of the Probate Code.~~

7 ~~(8) Sections 14607.6 and 16373 of the Vehicle Code.~~

8 ~~(9) Section 71386 of this code, Sections 304, 7851.5, and 9002~~
9 ~~of the Family Code, Section 1513.1 of the Probate Code, and~~
10 ~~Section 903.1 of the Welfare and Institutions Code, if the~~
11 ~~reimbursement is for expenses incurred by the court.~~

12 ~~(10) Section 3153 of the Family Code, if the amount is paid to~~
13 ~~the court for the cost of counsel appointed by the court to represent~~
14 ~~a child.~~

15 ~~(b) On and after January 1, 2006, each superior court shall~~
16 ~~deposit all fees and fines listed in subdivision (a), as soon as~~
17 ~~practicable after collection and on a regular basis, into a bank~~
18 ~~account established for this purpose by the Administrative Office~~
19 ~~of the Courts. Upon direction of the Administrative Office of the~~
20 ~~Courts, the county shall deposit civil assessments under Section~~
21 ~~1214.1 of the Penal Code and any other money it collects under~~
22 ~~the sections listed in subdivision (a) as soon as practicable after~~
23 ~~collection and on a regular basis into the bank account established~~
24 ~~for this purpose and specified by the Administrative Office of the~~
25 ~~Courts. The deposits shall be made as required by rules adopted~~
26 ~~by, and financial policies and procedures authorized by, the Judicial~~
27 ~~Council under subdivision (a) of Section 77206. Within 15 days~~
28 ~~after the end of the month in which the fees and fines are collected,~~
29 ~~each court, and each county that collects any fines or fees under~~
30 ~~subdivision (a), shall provide the Administrative Office of the~~
31 ~~Courts with a report of the fees by category as specified by the~~
32 ~~Administrative Office of the Courts. The Administrative Office~~
33 ~~of the Courts and any court may agree upon a time period greater~~
34 ~~than 15 days, but in no case more than 30 days after the end of the~~
35 ~~month in which the fees and fines are collected. The fees and fines~~
36 ~~listed in subdivision (a) shall be distributed as provided in this~~
37 ~~section.~~

38 ~~(c) (1) Within 45 calendar days after the end of the month in~~
39 ~~which the fees and fines listed in subdivision (a) are collected, the~~

~~Administrative Office of the Courts shall make the following distributions:~~

~~(A) To the small claims advisory services, as described in subdivision (f) of Section 116.230 of the Code of Civil Procedure.~~

~~(B) To dispute resolution programs, as described in subdivision (b) of Section 68085.3 and subdivision (b) of Section 68085.4.~~

~~(C) To the county law library funds, as described in Sections 116.230 and 116.760 of the Code of Civil Procedure, subdivision (b) of Section 68085.3, subdivision (b) of Section 68085.4, and Section 70621 of this code, and Section 14607.6 of the Vehicle Code.~~

~~(D) To the courthouse construction funds in the Counties of Riverside, San Bernardino, and San Francisco, as described in Sections 70622, 70624, and 70625.~~

~~(2) If any distribution under this subdivision is delinquent, the Administrative Office of the Courts shall add a penalty to the distribution as specified in subdivision (i).~~

~~(d) Within 45 calendar days after the end of the month in which the fees and fines listed in subdivision (a) are collected, the amounts remaining after the distributions in subdivision (c) shall be transmitted to the State Treasury for deposit in the Trial Court Trust Fund and other funds as required by law. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund or other fund to which it is to be deposited. Upon the receipt of any delinquent payment required under this subdivision, the Controller shall calculate a penalty as provided under subdivision (i).~~

~~(e) From the money transmitted to the State Treasury under subdivision (d), the Controller shall make deposits as follows:~~

~~(1) Into the State Court Facilities Construction Fund, the Judges' Retirement Fund, and the Equal Access Fund, as described in subdivision (c) of Section 68085.3 and subdivision (c) of Section 68085.4.~~

~~(2) Into the Health Statistics Special Fund, as described in subdivision (b) of Section 70670 of this code and Section 103730 of the Health and Safety Code.~~

~~(3) Into the Family Law Trust Fund, as described in Section 70674.~~

1 ~~(4) Into the Immediate and Critical Needs Account of the State~~
2 ~~Court Facilities Construction Fund, established in Section 70371.5,~~
3 ~~as described in Sections 68085.3, 68085.4, and 70657.5, and~~
4 ~~subdivision (e) of Section 70617.~~

5 ~~(5) The remainder of the money shall be deposited into the Trial~~
6 ~~Court Trust Fund.~~

7 ~~(f) The amounts collected by each superior court under Section~~
8 ~~116.232, subdivision (g) of Section 411.20, and subdivision (g) of~~
9 ~~Section 411.21 of the Code of Civil Procedure, Sections 304, 3112,~~
10 ~~3153, 7851.5, and 9002 of the Family Code, subdivision (d) of~~
11 ~~Section 6103.5, paragraph (3) of subdivision (a) of Section 68638,~~
12 ~~and Sections 68926.1, 69953.5, 70627, 70631, 70640, 70661,~~
13 ~~70678, and 71386 of this code, and Sections 1513.1, 1835, and~~
14 ~~1851.5 of the Probate Code shall be added to the monthly~~
15 ~~apportionment for that court under subdivision (a) of Section~~
16 ~~68085.~~

17 ~~(g) If any of the fees provided in subdivision (a) are partially~~
18 ~~waived by court order or otherwise reduced, and the fee is to be~~
19 ~~divided between the Trial Court Trust Fund and any other fund or~~
20 ~~account, the amount of the reduction shall be deducted from the~~
21 ~~amount to be distributed to each fund in the same proportion as~~
22 ~~the amount of each distribution bears to the total amount of the~~
23 ~~fee. If the fee is paid by installment payments, the amount~~
24 ~~distributed to each fund or account from each installment shall~~
25 ~~bear the same proportion to the installment payment as the full~~
26 ~~distribution to that fund or account does to the full fee. If a court~~
27 ~~collects a fee that was incurred before January 1, 2006, under a~~
28 ~~provision that was the predecessor to one of the paragraphs~~
29 ~~contained in subdivision (a), the fee may be deposited as if it were~~
30 ~~collected under the paragraph of subdivision (a) that corresponds~~
31 ~~to the predecessor of that paragraph and distributed in prorated~~
32 ~~amounts to each fund or account to which the fee in subdivision~~
33 ~~(a) must be distributed.~~

34 ~~(h) Except as provided in Sections 470.5 and 6322.1 of the~~
35 ~~Business and Professions Code, and Sections 70622, 70624, and~~
36 ~~70625 of this code, no agency may take action to change the~~
37 ~~amounts allocated to any of the funds described in subdivision (c);~~
38 ~~(d), or (e).~~

39 ~~(i) The amount of the penalty on any delinquent payment under~~
40 ~~subdivision (c) or (d) shall be calculated by multiplying the amount~~

1 of the delinquent payment at a daily rate equivalent to $1\frac{1}{2}$ percent
2 per month for the number of days the payment is delinquent. The
3 penalty shall be paid from the Trial Court Trust Fund. Penalties
4 on delinquent payments under subdivision (d) shall be calculated
5 only on the amounts to be distributed to the Trial Court Trust Fund
6 and the State Court Facilities Construction Fund, and each penalty
7 shall be distributed proportionately to the funds to which the
8 delinquent payment was to be distributed.

9 (j) If a delinquent payment under subdivision (c) or (d) results
10 from a delinquency by a superior court under subdivision (b), the
11 court shall reimburse the Trial Court Trust Fund for the amount
12 of the penalty. Notwithstanding Section 77009, any penalty on a
13 delinquent payment that a court is required to reimburse pursuant
14 to this section shall be paid from the court operations fund for that
15 court. The penalty shall be paid by the court to the Trial Court
16 Trust Fund no later than 45 days after the end of the month in
17 which the penalty was calculated. If the penalty is not paid within
18 the specified time, the Administrative Office of the Courts may
19 reduce the amount of a subsequent monthly allocation to the court
20 by the amount of the penalty on the delinquent payment.

21 (k) If a delinquent payment under subdivision (c) or (d) results
22 from a delinquency by a county in transmitting fees and fines listed
23 in subdivision (a) to the bank account established for this purpose,
24 as described in subdivision (b), the county shall reimburse the Trial
25 Court Trust Fund for the amount of the penalty. The penalty shall
26 be paid by the county to the Trial Court Trust Fund no later than
27 45 days after the end of the month in which the penalty was
28 calculated.

29 ~~SEC. 2.~~

30 *SECTION 1.* Section 903.1 of the Welfare and Institutions
31 Code is amended to read:

32 903.1. (a) The father, mother, spouse, or other person liable
33 for the support of a minor, the estate of that person, and the estate
34 of the minor, shall be liable for the cost to the county or the court,
35 whichever entity incurred the expenses, of legal services rendered
36 to the minor by an attorney pursuant to an order of the juvenile
37 court. The father, mother, spouse, or other person liable for the
38 support of a minor and the estate of that person shall also be liable
39 for any cost to the county or the court of legal services rendered
40 directly to the father, mother, or spouse, of the minor or any other

1 person liable for the support of the minor, in a dependency
2 proceeding by an attorney appointed pursuant to an order of the
3 juvenile court. The liability of those persons (in this article called
4 relatives) and estates shall be a joint and several liability.

5 (b) Notwithstanding subdivision (a), the father, mother, spouse,
6 or other person liable for the support of the minor, the estate of
7 that person, or the estate of the minor, shall not be liable for the
8 costs of any of the legal services provided to any person described
9 in this section if a petition to declare the minor a dependent child
10 of the court pursuant to Section 300 is dismissed at or before the
11 jurisdictional hearing.

12 (c) *Fees received pursuant to this section shall be transmitted*
13 *to the Administrative Office of the Courts in the same manner as*
14 *prescribed in Section 68085.1 of the Government Code. The*
15 *Administrative Office of the Courts shall deposit the fees received*
16 *pursuant to this section into the Trial Court Trust Fund.*

17 ~~SEC. 3.~~

18 SEC. 2. Section 903.45 of the Welfare and Institutions Code
19 is amended to read:

20 903.45. (a) The board of supervisors may designate a county
21 financial evaluation officer pursuant to Section 27750 of the
22 Government Code to make financial evaluations of liability for
23 reimbursement pursuant to Sections 207.2, 903, 903.1, 903.2,
24 903.25, 903.3, and 903.5, and other reimbursable costs allowed
25 by law, as set forth in this section.

26 (b) In any county where a board of supervisors has designated
27 a county financial evaluation officer, the juvenile court shall, at
28 the close of the disposition hearing, order any person liable for the
29 cost of support, pursuant to Section 903, the cost of legal services
30 as provided for in Section 903.1, probation costs as provided for
31 in Section 903.2, or any other reimbursable costs allowed under
32 this code, to appear before the county financial evaluation officer
33 for a financial evaluation of his or her ability to pay those costs;
34 and if the responsible person is not present at the disposition
35 hearing, the court shall cite him or her to appear for such a financial
36 evaluation. In the case of a parent, guardian, or other person
37 assessed for the costs of transport, food, shelter, or care of a minor
38 under Section 207.2 or 903.25, the juvenile court shall, upon
39 request of the county probation department, order the appearance
40 of the parent, guardian, or other person before the county financial

1 evaluation officer for a financial evaluation of his or her ability to
2 pay the costs assessed.

3 If the county financial evaluation officer determines that a person
4 so responsible has the ability to pay all or part of the costs, the
5 county financial evaluation officer shall petition the court for an
6 order requiring the person to pay that sum to the county or court,
7 depending on which entity incurred the expense. If the parent or
8 guardian is liable for costs for legal services pursuant to Section
9 903.1, the parent or guardian has been reunified with the child
10 pursuant to a court order, and the county financial evaluation officer
11 determines that repayment of the costs would harm the ability of
12 the parent or guardian to support the child, then the county financial
13 evaluation officer shall not petition the court for an order of
14 repayment, and the court shall not make that order. In addition, if
15 the parent or guardian is currently receiving reunification services,
16 and the court finds that repayment by the parent or guardian will
17 pose a barrier to reunification with the child because it will limit
18 the ability of the parent or guardian to comply with the
19 requirements of the reunification plan or compromise the parent's
20 or guardian's current or future ability to meet the financial needs
21 of the child, or in any case in which the court finds that the
22 repayment would be unjust under the circumstances of the case,
23 the court shall not order repayment by the parent or guardian. In
24 evaluating a person's ability to pay under this section, the county
25 financial evaluation officer and the court shall take into
26 consideration the family's income, the necessary obligations of
27 the family, and the number of persons dependent upon this income.
28 Any person appearing for a financial evaluation shall have the
29 right to dispute the county financial evaluation officer's
30 determination, in which case he or she shall be entitled to a hearing
31 before the juvenile court. The county financial evaluation officer
32 at the time of the financial evaluation shall advise such a person
33 of his or her right to a hearing and of his or her rights pursuant to
34 subdivision (c).

35 At the hearing, any person so responsible for costs shall be
36 entitled to have, but shall not be limited to, the opportunity to be
37 heard in person, to present witnesses and other documentary
38 evidence, to confront and cross-examine adverse witnesses, to
39 disclosure of the evidence against him or her, and to receive a
40 written statement of the findings of the court. The person shall

1 have the right to be represented by counsel, and, when the person
2 is unable to afford counsel, the right to appointed counsel. If the
3 court determines that the person has the ability to pay all or part
4 of the costs, including the costs of any counsel appointed to
5 represent the person at the hearing, the court shall set the amount
6 to be reimbursed and order him or her to pay that sum to the county
7 or court, depending on which entity incurred the expense, in a
8 manner in which the court believes reasonable and compatible
9 with the person's financial ability.

10 If the person or persons, after having been ordered to appear
11 before the county financial evaluation officer, have been given
12 proper notice and fail to appear as ordered, the county financial
13 evaluation officer shall recommend to the court that he, she, or
14 they be ordered to pay the full amount of the costs. Proper notice
15 to him, her, or them shall contain all of the following:

16 (1) That he, she, or they have a right to a statement of the costs
17 as soon as it is available.

18 (2) His, her, or their procedural rights under Section 27755 of
19 the Government Code.

20 (3) The time limit within which his, her, or their appearance is
21 required.

22 (4) A warning that if he, she, or they fail to appear before the
23 county financial evaluation officer, the officer will recommend
24 that the court order him, her, or them to pay the costs in full.

25 If the county financial evaluation officer determines that the
26 person or persons have the ability to pay all or a portion of these
27 costs, with or without terms, and he, she, or they concur in this
28 determination and agree to the terms of payments, the county
29 financial evaluation officer, upon his or her written evaluation and
30 the person's or persons' written agreement, shall petition the court
31 for an order requiring him, her, or them to pay that sum to the
32 county or the court in a manner which is reasonable and compatible
33 with his, her, or their financial ability. This order may be granted
34 without further notice to the person or persons, provided a copy
35 of the order is served on him, her, or them by mail.

36 However, if the county financial evaluation officer cannot reach
37 an agreement with the person or persons with respect to either the
38 liability for the costs, the amount of the costs, his, her, or their
39 ability to pay the same, or the terms of payment, the matter shall

1 be deemed in dispute and referred by the county financial
2 evaluation officer back to the court for a hearing.

3 (c) At any time prior to the satisfaction of a judgment entered
4 pursuant to this section, a person against whom the judgment was
5 entered may petition the rendering court to modify or vacate the
6 judgment on the basis of a change in circumstances relating to his
7 or her ability to pay the judgment.

8 (d) Execution may be issued on the order in the same manner
9 as on a judgment in a civil action, including any balance remaining
10 unpaid at the termination of the court's jurisdiction over the minor.

11 ~~SEC. 4.~~

12 *SEC. 3.* Section 903.47 is added to the Welfare and Institutions
13 Code, to read:

14 903.47. (a) The Judicial Council shall establish a program to
15 collect reimbursements from the person liable for the costs of
16 counsel appointed to represent parents or minors pursuant to
17 Section 903.1.

18 (1) As part of the program, the Judicial Council shall:

19 (A) Adopt a statewide standard for determining the ability to
20 pay reimbursements for counsel, which shall at a minimum include
21 the family's income, their necessary obligations, the number of
22 individuals dependent on this income, and the ~~cost-effectiveness~~
23 *cost-effectiveness* of the program.

24 (B) Adopt policies and procedures allowing a court to recover
25 from the money collected the costs associated with collecting
26 delinquent reimbursements. The policies and procedures shall at
27 a minimum limit the amount of money a court may recover to a
28 reasonable proportion of the delinquent reimbursements collected
29 and provide the terms and conditions under which a court may use
30 a ~~third-party~~ *third party* to collect delinquent reimbursements.

31 (2) The money collected shall be deposited as required by
32 Section 68085.1 of the Government Code. Except as otherwise
33 authorized by law, the money collected under this program shall
34 be utilized to reduce caseloads, for attorneys appointed by the
35 court, to the caseload standard approved by the Judicial Council.
36 Priority shall be given to those courts with the highest attorney
37 caseloads that also demonstrate the ability to immediately improve
38 outcomes for parents and children as a result of lower attorney
39 caseloads.

1 (b) With the consent of the county and pursuant to the terms
2 and conditions agreed upon by the court and county, the court may
3 designate a financial evaluation officer to make financial
4 evaluations of liability for reimbursement pursuant to Section
5 903.1. In processing reimbursement of payments pursuant to
6 Section 903.1, the court and financial evaluation officer shall
7 follow the procedures set forth for county financial evaluation
8 officers in subdivisions (b), (c), and (d) of Section 903.45.

O